



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No. 2046-00  
28 August 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 August 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 13 February 1997 for four years at age 18. The medical record reflects that on 10 March 1997 you were referred for a surgery consult for a right inguinal hernia. On 26 March 1997 it was noted on your recruit performance record you were found on the deck under your rack with a blanket and pillow during normal working hours, and that you showed "a lack of military bearing and ability to follow simple rules." You were always sitting around the compartment complaining about sore feet and legs and were witnessed going to the galley without your crutches and with no limp.

On 31 March 1997 you underwent surgery for repair of the hernia. On 3 April 1997, while sick in quarters from surgery, you were found playing baseball in the compartment, using a rolled up sock as a ball, with no signs of pain. The recruit drill commander ordered you back to your rack. Later that evening, you fell in the shower and pulled the stitches from your surgery and were taken to the hospital by ambulance. The following day you were

witnessed violating recruit training command rules by smoking in the courtyard. It was noted in your record you lacked respect for lawful orders and had been issued three warnings. You were taken to mast and awarded a two-week setback in training.

On 16 April 1997 you were seen for a follow-up visit with the podiatry clinic for stress fractures of both feet. Two days latter you were found sleeping during normal working hours in the laundry room. This was the second time you were counseled about sleeping. During the months of April and May 1997 you had at least six follow-up visits for the stress fractures.

On 6 May 1997 you were witnessed playing around again in the compartment, and later took a bucket of cold water and dumped it on a shipmate who was in the shower. The following day you were found sleeping on watch. It was recommended that you be referred to a recruit evaluation board and administratively separated

On 7 March 1997 a recruit evaluation board found that your general qualifications did not warrant retention in the service and recommended discharge by reason of unsuitability. The board recommended a reenlistment code favorable for consideration after a period of recuperation.

On 19 May 1997 you were notified that that you were being considered for administrative separation by reason of entry level performance and conduct as evidenced by failure to adapt to the naval environment. You were advised of your procedural rights, declined to consult with counsel or submit a statement in your own behalf, and waived the right to have you case reviewed by the general court-martial convening authority. Thereafter, the discharge authorized directed an uncharacterized entry level separation by reason of entry level performance and conduct. You were so discharged on 23 May 1997 and assigned an RE-4 reenlistment code.

Regulations require the assignment of an RE-4 reenlistment code to individuals discharged by reason of entry level performance and conduct. Since you were treated no differently than others discharged under similar circumstances the Board could find no error or injustice in your assigned reenlistment code. An RE-4 reenlistment code means that an individual is ineligible to reenlistment without prior approval from Commander, Navy Personnel Command. This code may be waived if recruiting officials are convinced that review of a recruit failure is warranted due to extenuating circumstances that led to the discharge. While the Board can change an incorrectly or inappropriately assigned reenlistment code, waiver of a code rests with the Navy Personnel Command and not this Board. The

Board concluded that the reenlistment code was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director